

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

ORIGINAL

In the Matter of )  
 )  
Amendment of the Commission's ) General Docket No. 90-314  
Rules to Establish New Personal )  
Communications Services )  
 )

To: The Commission

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**REPLY COMMENTS OF  
THE AMERICAN PETROLEUM INSTITUTE**

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Dated: September 27, 1994

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**REPLY COMMENTS OF  
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The American Petroleum Institute ("API"), by its attorneys, pursuant to the invitation extended by the Federal Communications Commission ("FCC" or "Commission" or "Agency") in its Public Notice<sup>1/</sup> in the above-referenced proceeding submits the following Reply Comments addressing API's concerns with the Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management ("UTAM") plan for financing and management of the transition from fixed to unlicensed PCS operations in the band 1910-1930 MHz.

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<sup>1/</sup> Public Notice, DA 94-873, (August 11, 1994).

## **I. BACKGROUND**

1. API filed Comments in this proceeding offering general support for the UTAM unlicensed PCS band transition plan (hereinafter the "UTAM Plan)". While API generally approved of the proposed plan, API noted that before the FCC adopts the UTAM proposal, it must act to ensure that adequate funding is available for relocation, and should require that the plan feature a procedure for multiple link system negotiations. Further, API stated that deployment of nomadic U-PCS must occur only subject to the FCC's rules and that adjustments should be made to UTAM's deployment proposal for coordinatable U-PCS devices. Finally, API asked that UTAM's proposed interference dispute resolution methods be further clarified.

2. The Comments filed in this proceeding demonstrate general agreement with API that the UTAM proposal is an acceptable "first step" toward development of a transition mechanism but that several issues remain to be resolved. API reiterates that fixed system interference avoidance, finance adequacy and other issues must be resolved prior to adoption of any final transition plan for the band 1910-1930 MHz.

## II. REPLY COMMENTS

### **A. The UTAM Proposal Must be Clarified and Expanded to Protect the Interests of Incumbent Licensees During the Transition Process.**

3. API remains concerned that UTAM could run short on transition funding should the current plan be adopted as proposed. Other commenters share API's concerns that UTAM must be committed to adequately reimburse incumbent licensees for all costs associated with transition activities.<sup>2/</sup>

4. The Commission must require more substantial showings of funding capabilities prior to approval of UTAM as transition management entity. API again urges the Commission to require that UTAM provide full details of its "up front" manufacturer contribution sources and amounts, to ensure that UTAM is adequately funded to complete all required transition activity and to pay all incumbent migration costs.

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<sup>2/</sup> See Comments of Spectralink at 3-5; Association of American Railroads ("AAR") at 4-5.

5. API notes the concerns of other commenters with regard to UTAM's proposed U-PCS deployment approaches. For example, other commenters agree with API that uncontrolled deployment of U-PCS could lead to unmanageable interference problems.<sup>3/</sup> Particularly, commenters note that uncontrolled deployment of "coordinatable" U-PCS devices could render the "users cap" in Zone 1 areas unworkable. UTAM proposes a 10% safety margin with this scheme; however, API views this more as a safeguard to manage simple and unintended human error in calculation and actual tracking of U-PCS deployments. The more significant safety margin proposed in API's Comments is necessary to forestall interference to fixed systems due to intentional unauthorized U-PCS unit deployments. API agrees with the Utilities Telecommunications Council that a safety margin of approximately 50% should prove workable.<sup>4/</sup> API strenuously objects to the proposal of Hewlett Packard that six months advance notice to U-PCS manufacturers coupled with formal approval from the FCC be required prior to UTAM's issuance

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<sup>3/</sup> See Comments of Utilities Telecommunications Council ("UTC") at 4-6; South Florida Water Management District ("SFWMD") at 4-5.

<sup>4/</sup> Comments of UTC at 8.

of a "stop deployment" order.<sup>5/</sup> The imposition of such requirements could prove harmful since a possibility exists that rapid and unanticipated deployment of U-PCS devices in a given area could create a need for expeditious issuance of a stop deployment order to avoid interference to fixed operations. This increased potential for interference to critical safety oriented fixed operations which Hewlett Packard's proposal would create, clearly is not in the public interest. The risks involved with the public safety more than outweigh the potential that UTAM would temporarily inconvenience manufacturers by issuance of a short term stop deployment order. Accordingly, Hewlett Packard's proposal must be rejected.

6. API remains concerned along with other commenters that UTAM's proposed disablement feature for coordinatable U-PCS devices may prove unworkable. API concurs with others that a disablement program for coordinatable PCS devices must require "an automatic mechanism" which will disable the device once it is moved outside the confines of the geographic area for where its operation has been coordinated.<sup>6/</sup> Further, API agrees that UTAM must provide

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<sup>5/</sup> Comments of Hewlett Packard at 2-3.

<sup>6/</sup> See, Comments of UTC at 7; SFWMD at 6.

full details on its proposed frequency coordination formula for deployment of coordinatable devices prior to approval of the plan.<sup>7/</sup> API also notes the agreement of other commenters that any method used to allow deployment of "nomadic" U-PCS must be subject to formal public comment and FCC approval, or may not be attempted until the band clearance is final.<sup>8/</sup>

**B. The UTAM Plan Must Contain a Multiple Link Unit Relocation Procedure and Must Further Specify Dispute Resolution Methods**

7. API is not alone in its concern that many current fixed microwave links are parts of larger systems which may contain several links which operate in the affected spectrum.<sup>9/</sup> A method should be developed by which multiple piece-by-piece negotiations for migration of such systems may be avoided. API reminds the Commission that implementation of a multiple link relocation procedure will save time, avoid technical difficulties and save substantial sums of money. Because UTAM is responsible for paying relocation costs, the savings realized from such an approach

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<sup>7/</sup> Comments of SFWMD at 4-5.

<sup>8/</sup> Comments of AAR at 4; Comments of SFWMD at 3.

<sup>9/</sup> Comments of AAR at 6.

would accrue directly to UTAM and to U-PCS proponents, thereby fostering more rapid U-PCS deployment.

8. API also reminds the Commission of its concerns with the lack of detail in the proposed UTAM dispute resolution process. Further details of UTAM's dispute resolution methods should be put forward for public comment prior to any acceptance by the Commission.<sup>10/</sup>

### III. CONCLUSION

9. With the exception of the concerns noted above, API agrees that UTAM's plan provides an excellent starting point from which to develop final procedures for clearance of the 1910-1930 MHz band to allow U-PCS deployment. Nevertheless, API reminds the Commission that the public benefits to be derived from U-PCS system deployment do not outweigh the public safety benefits offered by highly reliable fixed telecommunications services available to incumbent licensees in the band 1910-1930 MHz. Accordingly, the Commission must require that the UTAM Plan be expanded, and in some instances modified, to take into account the needs of incumbent licensees.

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<sup>10/</sup> Comments of AAR at 8.



**WHEREFORE, THE PREMISES CONSIDERED,** the American Petroleum Institute respectfully requests the Federal Communications Commission to act in a manner consistent with the views expressed herein.

Respectfully submitted,

**THE AMERICAN PETROLEUM INSTITUTE**

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Dated: September 27, 1994

**CERTIFICATE OF SERVICE**

I, Terri Thomas, a secretary in the law firm of Keller and Heckman, do hereby certify that a copy of the foregoing Comments of the American Petroleum Institute has been served this 27TH day of September, 1994 by hand delivery to the following:

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